

1 ENGROSSED SENATE AMENDMENT
TO

2 ENGROSSED HOUSE
BILL NO. 1774

By: Williams of the House

3
4 and

Bullard of the Senate

5
6
7 An Act relating to state government; amending 74 O.S.
2021, Section 85.3A, as amended by Section 53,
8 Chapter 228, O.S.L. 2022 (74 O.S. Supp. 2022, Section
85.3A), which relates to the Oklahoma Central
9 Purchasing Act; adding exemption; amending 74 O.S.
2021, Sections 2213, 2221, 2239 and 2244 which relate
10 to the Oklahoma Tourism, Parks and Recreation
Enhancement Act; modifying exemptions from the
11 Oklahoma Central Purchasing Act; and providing an
effective date.

12
13
14 AUTHOR: Add the following House Coauthor: Wolfley

15 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and
entire bill and insert

16
17 "An Act relating to the Oklahoma Central Purchasing
Act; amending 74 O.S. 2021, Section 85.7, as amended
18 by Section 1, Chapter 188, O.S.L. 2022 (74 O.S. Supp.
2022, Section 85.7), which relates to acquisition
19 initiation; adding exemption for certain contracts
from competitive bidding requirements; amending 74
20 O.S. 2021, Section 85.12, which relates to excluded
acquisitions of the Oklahoma Central Purchasing Act;
21 prohibiting certain actions; allowing for certain
purchases to be exempted; authorizing audit by the
22 State Purchasing Director for certain purchases;
updating statutory references; updating statutory
23 language; repealing 74 O.S. 2021, Sections 2213,
2221, 2239, and 2244, which relate to the Oklahoma

1 Tourism, Parks and Recreation Enhancement Act; and
2 providing an effective date.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. AMENDATORY 74 O.S. 2021, Section 85.7, as
6 amended by Section 1, Chapter 188, O.S.L. 2022 (74 O.S. Supp. 2022,
7 Section 85.7), is amended to read as follows:

8 Section 85.7. A. 1. Except as otherwise provided by the
9 Oklahoma Central Purchasing Act, or associated rules:

10 a. every state agency shall initiate all acquisitions by
11 the submission of a requisition to the Purchasing
12 Division, and

13 b. no state agency shall make an acquisition for an
14 amount exceeding Fifty Thousand Dollars (\$50,000.00)
15 or the limit determined by the State Purchasing
16 Director pursuant to rules authorized by Section 85.5
17 of this title, not to exceed Two Hundred Fifty
18 Thousand Dollars (\$250,000.00), without submission of
19 a requisition to the Purchasing Division for issuance
20 of a solicitation for the acquisition on behalf of the
21 agency. Any exemption from competitive bid
22 requirements of the Oklahoma Central Purchasing Act
23 further exempts the acquisition from requisition
24 requirements of the act.

1 2. The State Purchasing Director may request additional
2 information necessary to adequately review a requisition to ensure
3 compliance with ~~this act~~ the Oklahoma Central Purchasing Act and
4 associated rules. If the State Purchasing Director determines that
5 an acquisition is not necessary, excessive or not justified, the
6 State Purchasing Director shall deny the requisition.

7 3. The provisions of ~~this act~~ the Oklahoma Central Purchasing
8 Act shall not preclude a state agency from:

9 a. accepting gifts or donations in any manner authorized
10 by law, or

11 b. making an acquisition for itself without submitting a
12 requisition under this section when authorized in
13 writing by the State Purchasing Director.

14 4. Any acquisition a state agency makes shall be made pursuant
15 to ~~this act~~ the Oklahoma Central Purchasing Act and associated
16 rules. No agency shall use split purchasing for the purpose of
17 evading the requirement of competitive bidding or other requirement
18 of ~~this act~~ the Oklahoma Central Purchasing Act or associated rules.
19 Violation of this provision shall be cause for discipline of a state
20 employee up to and including termination.

21 5. The State Purchasing Director may waive or increase the
22 limit authorized for a state agency acquisition made pursuant to its
23 own competitive procedures. To perfect an otherwise valid
24 acquisition inadvertently exceeding the limit due to administrative

1 error by a state agency or unforeseeable circumstances, the state
2 agency shall request a limited waiver or increase upon the discovery
3 of the error or circumstance to the State Purchasing Director. The
4 State Purchasing Director shall report requests for waivers or
5 increases, stating the amount and whether the request was granted or
6 denied, upon request by the Governor, President Pro Tempore of the
7 Senate or Speaker of the House of Representatives.

8 6. Competitive bidding requirements of this section shall not
9 be required for the following:

10 a. contracts for master custodian banks or trust
11 companies, investment managers, investment
12 consultants, and actuaries for the state retirement
13 systems, and Oklahoma Employees Insurance and Benefits
14 Board, pension fund management consultants of the
15 Oklahoma State Pension Commission and the
16 Commissioners of the Land Office, examiners, experts,
17 or consultants for the Insurance Department whose job
18 duties are tied to Market Conduct Exams, Financial
19 Exams, and Insurance Business Transfers, financial
20 institutions to act as depositories and managers of
21 the Oklahoma College Savings Plan accounts and other
22 professional services as defined in Section 803 of
23 Title 18 of the Oklahoma Statutes. When requested by
24 the Oklahoma Employees Insurance and Benefits Board or

1 the governing board of a state retirement system
2 authorized to hire investment managers, the Purchasing
3 Division shall assist in the process of selecting
4 investment managers,

5 b. a state agency making such an acquisition shall notify
6 the State Purchasing Director within fifteen (15) days
7 following completion of the acquisition. A list of
8 the exempt contracts shall be provided, upon request,
9 to a member of the Appropriations and Budget Committee
10 of the House of Representatives or Appropriations
11 Committee of the Senate,

12 c. purchases of postage by state agencies made pursuant
13 to Sections 90.1 through 90.4 of this title,

14 d. a sole source acquisition made in compliance with
15 Section 85.44D.1 of this title,

16 e. an acquisition for design, development, communication
17 or implementation of the state employees flexible
18 benefits plan; provided, procedures used for the
19 acquisition are consistent with competitive bid
20 requirements of ~~this act~~ the Oklahoma Central
21 Purchasing Act and associated rules,

22 f. any acquisition of a service which the Office of
23 Management and Enterprise Services has approved as
24

1 qualifying for a fixed and uniform rate, subject to
2 the following:

3 (1) the Purchasing Division shall establish criteria
4 and guidelines for those services which may
5 qualify for a fixed and uniform rate,

6 (2) fixed and uniform rate contracts authorized by
7 this subsection shall be limited to contracts for
8 those services furnished to persons directly
9 benefiting from such services and shall not be
10 used by a state agency to employ consultants or
11 to make other acquisitions,

12 (3) any state agency desiring to have a service
13 qualified for a fixed and uniform rate shall make
14 a request for service qualification to the State
15 Purchasing Director and submit documentation to
16 support the request. The State Purchasing
17 Director shall approve or deny the request. If
18 approved, the state agency shall establish a
19 fixed and uniform rate for the service. No
20 contracts shall be entered into by the state
21 agency until the rate has been approved by the
22 state agency in a public hearing. The proposed
23 rate shall be clearly and separately identified
24 in the agenda of the state agency for the hearing

1 and shall be openly and separately discussed
2 during such hearing. The state agency shall
3 notify the State Purchasing Director of its
4 pending consideration of the proposed rate at
5 least thirty (30) days before the state agency is
6 to meet on the proposed rate and deliver a copy
7 of the agenda items concerning the proposed rate
8 with supporting documentation. The State
9 Purchasing Director shall communicate any
10 observation, reservation, criticism or
11 recommendation to the agency, either in person at
12 the time of the hearing or in writing delivered
13 to the state agency before or at the time of the
14 hearing. The State Purchasing Director shall
15 specifically note in the written communications
16 whether the Director has determined the rate to
17 be excessive. Any written communication
18 presented in the absence of the State Purchasing
19 Director shall be presented orally during the
20 public hearing. Whether made in person or in
21 writing, any comment made by the State Purchasing
22 Director shall be made a part of the minutes of
23 the hearing in full,
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1 (4) within two (2) weeks after the convening of the
2 Legislature, the administrative officer of the
3 state agency shall furnish to the Speaker of the
4 House of Representatives, the President Pro
5 Tempore of the Senate and to any member of the
6 House or Senate, if requested by the member, a
7 complete list of all of the types of services
8 paid for by uniform fixed rates, the amount of
9 the rate last approved by the agency for the
10 service and the number of contracts then in
11 existence for each type of service. Any rate
12 which has been determined to be excessive by the
13 State Purchasing Director shall be specifically
14 identified in the list by the state agency, and

15 (5) at any time, the State Purchasing Director may
16 review, suspend or terminate a contract entered
17 into pursuant to the provisions of this paragraph
18 if the Director determines the contract is not
19 necessary, is excessive or is not justified,

20 g. an acquisition for a client of the State Department of
21 Rehabilitation Services; provided, the agency develops
22 and maintains standards for such an acquisition. The
23 agency may elect to utilize the Purchasing Division
24 for an acquisition. The standards shall foster

1 economy, provide a short response time, include
2 appropriate safeguards, require written records,
3 ensure appropriate competition for economical and
4 efficient purchasing and shall be approved by the
5 State Purchasing Director,

6 h. structured settlement agreements entered into by the
7 Attorney General's office in order to settle any
8 lawsuit involving the state, the Legislature, any
9 state agency or any employee or official of the state
10 if:

11 (1) prior to entering into any contract for the
12 services of an entity to administer a structured
13 settlement agreement, the Attorney General
14 receives proposals from at least three entities
15 engaged in providing such services, and

16 (2) the selection of a particular entity is made on
17 the basis of the response to the request which is
18 the most economical and provides the most
19 competent service which furthers the best
20 interests of the state,

21 i. an acquisition by a state agency pursuant to a
22 contract the State Purchasing Director enters into on
23 behalf of a state agency or awards and designates for
24 use by state agencies,

1 j. an acquisition by the Committee for Sustaining
2 Oklahoma's Energy Resources pursuant to a contract
3 with a local supplier for the purpose of holding a
4 special event or an exhibition throughout the state,
5 and

6 k. contracts for the study, analysis, and planning, as
7 reasonably necessary, to aid in determining the
8 feasibility of leasing, selling, or privately managing
9 or developing the property or facilities under control
10 of the Oklahoma Tourism and Recreation Commission.
11 The Commission shall be exempt from the competitive
12 bidding requirements of the Oklahoma Central
13 Purchasing Act for the purpose of soliciting,
14 negotiating, and effectuating such a contract or
15 contracts; provided, that the State Purchasing
16 Director shall review and audit all uses of the
17 exemptions provided in this subparagraph biannually.

18 7. Notwithstanding any other provision of law, an acquisition
19 may be exempted from requirements of this section by the State
20 Purchasing Director when in the State Purchasing Director's
21 discretion unusual, time-sensitive or unique circumstances exist
22 which make such exemption in the best and immediate interest of the
23 state. As used in this subsection, "State Purchasing Director"
24 shall not mean a designee. Any such acquisitions shall be described

1 in detail and publicly posted as a data feed. The description shall
2 include the name of the supplier, cost of the acquisition, reason
3 for exemption and, as applicable, detailed comparison of the
4 acquisition with comparable items, any identified cost savings
5 resulting from the acquisition and a description of benefits to the
6 state. The State Purchasing Director shall take no action under the
7 provisions of this subsection prior to such public posting.

8 B. Competitively bid acquisitions shall be awarded to the
9 lowest and best, or best value, bidder or bidders.

10 C. Bids for an amount requiring submission of requisitions to
11 the Purchasing Division shall be evaluated by the Purchasing
12 Division and the state agency receiving the acquisition. At a
13 minimum, cost and technical expertise shall be considered in
14 determining the lowest and best, or best value, bid. Further, the
15 state agency shall present its evaluation and recommendation to the
16 State Purchasing Director. A documented evaluation report
17 containing the evaluations of the Purchasing Division or the state
18 agency shall be completed prior to the contract award and such
19 report shall be a matter of public record.

20 D. Except as otherwise specifically provided by law, the
21 acquisition of food items or food products by a state agency from a
22 public trust created pursuant to Sections 176 through 180.56 of
23 Title 60 of the Oklahoma Statutes shall comply with competitive
24 bidding requirements of this section.

1 E. Cooperative contracts shall not be utilized unless the
2 purchasing cooperative and its affiliated suppliers have complied
3 with competitive bid requirements of ~~this act~~ the Oklahoma Central
4 Purchasing Act and associated rules.

5 F. Notwithstanding any provision of ~~this act~~ the Oklahoma
6 Central Purchasing Act, in all cases where federal granted funds are
7 involved, the federal laws, rules and regulations thereto shall
8 govern to the extent necessary to inure to the benefit of such funds
9 to this state.

10 G. A court order requiring an acquisition by a state agency,
11 whether or not such state agency is subject to ~~this act~~ the Oklahoma
12 Central Purchasing Act, shall not invalidate competitive bidding
13 procedures required by this section if such court order does not
14 specify a specific supplier. Any such acquisition shall comply with
15 competitive bid procedures.

16 SECTION 2. AMENDATORY 74 O.S. 2021, Section 85.12, is
17 amended to read as follows:

18 Section 85.12. A. The provisions of this section shall not be
19 construed to affect any law relating to fiscal or accounting
20 procedure except as they may be directly in conflict herewith; and
21 all claims, warrants, and bonds shall be examined, inspected, and
22 approved as now provided by law.

23 B. Except as otherwise provided by this section, the
24 acquisitions specified in this subsection shall be made in

1 compliance with Section 85.39 of this title and purchasing card
2 program requirements but are not subject to other provisions of the
3 Oklahoma Central Purchasing Act:

4 1. Food and other products produced by state institutions and
5 agencies;

6 2. The printing or duplication of publications or forms of
7 whatsoever kind or character by state agencies if the work is
8 performed upon their own equipment by their own employees. Pursuant
9 to this paragraph, the state agency may only use equipment owned or
10 leased by the agency and may only utilize that equipment for
11 printing services required by the agency in performing duties
12 imposed upon the agency or functions authorized to be performed by
13 the agency. Any use of the equipment by the agency pursuant to an
14 agreement or contract with any other entity resulting in delivery of
15 intermediate or finished products to the entity purchasing or using
16 the products shall be subject to the provisions of ~~this act~~ the
17 Oklahoma Central Purchasing Act and associated rules;

18 3. Department of Transportation and Transportation Commission
19 contractual services or right-of-way acquisitions, contracts awarded
20 pursuant to bids let by the Transportation Commission for the
21 maintenance or construction of streets, roads, highways, bridges,
22 underpasses or any other transportation facilities under the control
23 of the Department of Transportation, equipment or material
24 acquisitions accruing to the Department of Transportation required

1 in ~~Federal-Aid~~ federal aid contracts and acquisitions for public-
2 service-type announcements initiated by the Department of
3 Transportation, but not acquisitions for advertising, public
4 relations or employment services;

5 4. Utility services regulated by a state or federal regulatory
6 commission, municipal ordinance or an Indian Tribal Council;

7 5. Acquisitions by the University Hospitals Authority. The
8 Authority shall develop standards for the acquisition of products
9 and services and may elect to utilize the Purchasing Division. The
10 standards shall foster economy and short response time and shall
11 include appropriate safeguards and record-keeping requirements to
12 ensure appropriate competition and economical and efficient
13 purchasing;

14 6. Custom harvesting by the Department of Corrections for the
15 Department or its institutions;

16 7. Subject to prior approval of the State Purchasing Director,
17 acquisitions from private prison suppliers which are subject to the
18 contracting procedures of Section 561 of Title 57 of the Oklahoma
19 Statutes;

20 8. Acquisitions by the Oklahoma Municipal Power Authority;

21 9. Acquisitions by the Grand River Dam Authority;

22 10. Acquisitions by rural water, sewer, gas or solid waste
23 management districts created pursuant to the Rural Water, Sewer, Gas
24 and Solid Waste Management Districts Act;

1 11. Acquisitions by the Oklahoma Ordnance Works Authority, the
2 Northeast Oklahoma Public Facilities Authority or the Midwestern
3 Oklahoma Development Authority;

4 12. Expenditure of monies appropriated to the State Board of
5 Education for ~~Local and State Supported Financial Support~~ local and
6 state-supported financial support of ~~Public Schools~~ public schools,
7 except monies allocated therefrom for the Administrative and Support
8 Functions of the State Department of Education;

9 13. Expenditure of monies appropriated to the State Department
10 of Rehabilitation Services for educational programs or educational
11 materials for the Oklahoma School for the Blind and the Oklahoma
12 School for the Deaf;

13 14. Contracts entered into by the Oklahoma Department of Career
14 and Technology Education for the development, revision or updating
15 of vocational curriculum materials, and contracts entered into by
16 the Oklahoma Department of Career and Technology Education for
17 training and supportive services that address the needs of new or
18 expanding industries;

19 15. Contracts entered into by the Oklahoma Center for the
20 Advancement of Science and Technology for professional services;

21 16. Contracts entered into by the Oklahoma Department of
22 Commerce pursuant to the provisions of Section 5066.4 of this title;

23 17. Acquisitions made by the Oklahoma Historical Society from
24 monies used to administer the White Hair Memorial;

1 18. Purchases of pharmaceuticals available through a multistate
2 or multigovernmental contract if such pharmaceuticals are or have
3 been on state contract within the last fiscal year, and the terms of
4 such contract are more favorable to the state or agency than the
5 terms of a state contract for the same products, as determined by
6 the State Purchasing Director. The state entity designated by law,
7 as specified in Section 1010.3 of Title 56 of the Oklahoma Statutes,
8 shall participate in the purchase of pharmaceuticals available
9 through such contracts;

10 19. Contracts for managed health care services entered into by
11 the state entity designated by law or the Department of Human
12 Services, as specified in paragraph 1 of subsection A of Section
13 1010.3 of Title 56 of the Oklahoma Statutes;

14 20. Acquisitions by a state agency through a General Services
15 Administration contract or other federal contract if the
16 acquisitions are not on current statewide contract or the terms of
17 the federal contract are more favorable to the agency than the terms
18 of a statewide contract for the same products;

19 21. Acquisitions of clothing for clients of the Department of
20 Human Services and acquisitions of food for group homes operated by
21 the Department of Human Services;

22 22. Acquisitions by the Oklahoma Energy Resources Board;

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1 23. Acquisitions of clothing for juveniles in the custody of
2 the Office of Juvenile Affairs and acquisitions of food for group
3 homes operated by the Office of Juvenile Affairs;

4 24. State contracts for flexible benefits plans pursuant to the
5 Oklahoma State Employees Benefits Act, Section 1361 et seq. of this
6 title;

7 25. Acquisitions by the Oklahoma Department of Securities to
8 investigate, initiate, or pursue administrative, civil or criminal
9 proceedings involving potential violations of the acts under the
10 Department's jurisdiction and acquisitions by the Oklahoma
11 Department of Securities for its investor education program;

12 26. Acquisitions for resale in and through canteens operated
13 pursuant to Section 537 of Title 57 of the Oklahoma Statutes and
14 canteens established at an institution or facility operated by the
15 Office of Juvenile Affairs;

16 27. Acquisitions by the Oklahoma Boll Weevil Eradication
17 Organization for employment and personnel services, and for
18 acquiring sprayers, blowers, traps and attractants related to the
19 eradication of boll weevils in this state or as part of a national
20 or regional boll weevil eradication program;

21 28. Contracts entered into by the Oklahoma Indigent Defense
22 System for expert services pursuant to the provisions of subsection
23 D of Section 1355.4 of Title 22 of the Oklahoma Statutes;

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1 29. Acquisitions by the Oklahoma Correctional Industries and
2 the Agri-Services programs of the Department of Corrections of raw
3 materials, component parts and other products, any equipment
4 excluding vehicles, and any services excluding computer consultant
5 services used to produce goods or services for resale and for the
6 production of agricultural products;

7 30. Contracts entered into by the Department of Human Services
8 for provision of supported living services to members of the
9 plaintiff class in Homeward Bound, Inc., et al. v. The Hisson
10 Memorial Center, et al., Case Number 85-C-437-E, United States
11 District Court for the Northern District of Oklahoma;

12 31. Contracts negotiated by the Office of Juvenile Affairs with
13 designated Youth Services Agencies and the Oklahoma Association of
14 Youth Services, or another Oklahoma nonprofit corporation whose
15 membership consists solely of Youth Services Agencies and of whom at
16 least a majority of Youth Services Agencies are members, pursuant to
17 the provisions of Section 2-7-306 of Title 10A of the Oklahoma
18 Statutes and contracts entered into by the Department of Human
19 Services pursuant to Section 1-9-110 of Title 10A of the Oklahoma
20 Statutes with designated Youth Services Agencies;

21 32. Contracts for annuities for structured settlements provided
22 for in Section 158 of Title 51 of the Oklahoma Statutes;

23 33. Subject to subsection E of this section, purchases made
24 from funds received by local offices administered by the Department

1 of Human Services or administered by the Office of Juvenile Affairs
2 for fund-raising activities and donations for the benefit of clients
3 and potential clients at the local offices where such purchases may
4 not otherwise be paid for from appropriated funds;

5 34. Acquisitions by the Oklahoma Historical Society for
6 restoration of historical sites and museums although the agency may
7 elect to utilize the Purchasing Division for an acquisition with
8 supplier and bid selection being the prerogative of the agency,
9 based on the supplier's documented qualifications and experience;
10 and

11 35. Acquisitions of clothing and food for patients in the care
12 of the J.D. McCarty Center for Children with Developmental
13 Disabilities.

14 C. Pursuant to the terms of a contract the State Purchasing
15 Director enters into or awards, a state agency, common school,
16 municipality, rural fire protection district, county officer or any
17 program contract, purchase, acquisition or expenditure that is not
18 subject to the provisions of the Oklahoma Central Purchasing Act,
19 may, unless acting pursuant to a contract with the state that
20 specifies otherwise, make use of statewide contracts and the
21 services of the Purchasing Division and the State Purchasing
22 Director. Any political subdivision or rural fire protection
23 district may designate the State Purchasing Director as its agent

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1 for any acquisition from a statewide contract or otherwise available
2 to the state.

3 D. The State Purchasing Director ~~may make periodic audits of~~
4 shall review and audit all the purchasing procedures of acquisitions
5 listed in subsection B of this section to ensure that the procedures
6 are being followed. Nothing in this section shall be construed to
7 authorize bid splitting as prohibited by the Oklahoma Central
8 Purchasing Act.

9 E. With respect to the Department of Human Services or the
10 Office of Juvenile Affairs, as applicable, monies received by
11 fundraising activities or donations from the local office, vending
12 operations administered by employees of the agency and all other
13 nonrestricted cash and cash-equivalent items received by employees
14 of the agency shall be deposited in the agency special account
15 established for this purpose. The deposits shall be made at local
16 banking institutions approved by the State Treasurer.

17 F. With respect to the Oklahoma Tourism and Recreation
18 Department, no exemption provided in this section shall be construed
19 for the use of leasing or contracting for state-owned restaurants in
20 Oklahoma state parks. The Department shall not be required to
21 purchase furniture, fixtures, equipment, and soft goods associated
22 with decor of the state parks, lodges, golf courses, and tourism
23 information centers from Oklahoma prisons or reformatories.

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1 Additionally, the Department shall not be required to make
2 purchases pursuant to a statewide contract for materials, supplies,
3 and services necessary for the efficient and economical operation of
4 revenue-generating, Department-operated facilities, including those
5 made to maintain or improve guest perception of quality and service;
6 provided, that the State Purchasing Director shall review and audit
7 all uses of the exemptions provided in this subsection biannually.

8 SECTION 3. REPEALER 74 O.S. 2021, Sections 2213, 2221,
9 2239, and 2244, are hereby repealed.

10 SECTION 4. This act shall become effective January 1, 2024.”

11
12 Passed the Senate the 27th day of April, 2023.

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14 _____
15 Presiding Officer of the Senate

16 Passed the House of Representatives the ____ day of _____,
17 2023.

18
19 _____
20 Presiding Officer of the House
21 of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1774

By: Williams of the House

3 and

4 Bullard of the Senate

5
6
7
8 An Act relating to state government; amending 74 O.S.
9 2021, Section 85.3A, as amended by Section 53,
10 Chapter 228, O.S.L. 2022 (74 O.S. Supp. 2022, Section
11 85.3A), which relates to the Oklahoma Central
12 Purchasing Act; adding exemption; amending 74 O.S.
13 2021, Sections 2213, 2221, 2239 and 2244 which relate
14 to the Oklahoma Tourism, Parks and Recreation
15 Enhancement Act; modifying exemptions from the
16 Oklahoma Central Purchasing Act; and providing an
17 effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 5. AMENDATORY 74 O.S. 2021, Section 85.3A, as
20 amended by Section 53, Chapter 228, O.S.L. 2022 (74 O.S. Supp. 2022,
21 Section 85.3A), is amended to read as follows:

22 Section 85.3A A. Compliance with the provisions of the
23 Oklahoma Central Purchasing Act shall not be required of:

24 1. County government;

- 1 2. The Oklahoma State Regents for Higher Education, the
2 institutions, centers or other constituent agencies of The Oklahoma
3 State System of Higher Education;
- 4 3. The telecommunications network known as OneNet;
- 5 4. The Department of Public Safety gun range;
- 6 5. The State Treasurer for the following purchases:
 - 7 a. services including, but not limited to, legal services
8 to assist in the administration of the Uniform
9 Unclaimed Property Act, as provided in Section 668 of
10 Title 60 of the Oklahoma Statutes, and
 - 11 b. software, hardware and associated services to assist
12 in the administration of funds and securities held by
13 the state, as provided in Section 71.2 of Title 62 of
14 the Oklahoma Statutes;
- 15 6. Statutorily allowed interagency agreements between state
16 agencies;
- 17 7. The Oklahoma Department of Veterans Affairs, in accordance
18 with Section 63.22 of Title 72 of the Oklahoma Statutes;
- 19 8. The Oklahoma Military Department for the purchases of
20 heraldry items including, but limited to, medals, badges and other
21 military accoutrements;
- 22 9. A transaction, wholly funded by monies other than state-
23 derived funds, in which a state agency functions only as a pass-
24 through conduit to fund an acquisition that is required by the

1 funding source for the benefit of another entity or individuals and
2 the state agency does not retain ownership of any part of the
3 acquisition as a result of the transaction; ~~or~~

4 10. The Secretary of State when selecting a vendor for
5 publication of the Oklahoma Statutes in accordance with Section 13
6 of Title 75 of the Oklahoma Statutes; or

7 11. The Oklahoma Tourism and Recreation Commission for the
8 purpose of soliciting, negotiating, and effectuating contracts
9 pursuant to Sections 2213, 2221, 2239 and 2244 of this title.

10 B. The State Purchasing Director may form an advisory committee
11 consisting of representatives from entities exempted from the
12 provisions of the Oklahoma Central Purchasing Act. The purpose of
13 the committee shall be to allow committee members to provide input
14 into the development of shared state purchasing contracts,
15 collaboratively participate in the integration of their purchasing
16 platforms or electronic purchasing catalogs, analyze solutions that
17 may be used by state government to meet the purchasing needs of the
18 entities, explore joint purchases of general use items that result
19 in mutual procurement of quality goods and services at the lowest
20 reasonable cost and explore flexibility, administrative relief and
21 transformation changes through utilization of procurement
22 technology.

23 C. At the invitation of the State Purchasing Director entities
24 exempted from the provisions of the Oklahoma Central Purchasing Act

1 shall participate in the advisory committee referenced in subsection
2 B of this section.

3 D. The State Purchasing Director may invite representatives of
4 political subdivisions, and local common education entities to
5 participate as members of the advisory committee.

6 SECTION 6. AMENDATORY 74 O.S. 2021, Section 2213, is
7 amended to read as follows:

8 Section 2213. A. The Oklahoma Tourism and Recreation Commission
9 may contract for the study, analysis, and planning as reasonably
10 necessary to aid in determining the feasibility of leasing, selling
11 or privately managing or developing the property or facilities under
12 the control of the Commission. The Commission shall be exempt from
13 the competitive bidding requirements of the Oklahoma Central
14 Purchasing Act for the purpose of soliciting, negotiating, and
15 effectuating such a contract or contracts pursuant to Section 85.3A
16 of this title.

17 B. The State Purchasing Director shall review and audit all
18 uses of the exemptions provided in subsection A of this section.

19 SECTION 7. AMENDATORY 74 O.S. 2021, Section 2221, is
20 amended to read as follows:

21 Section 2221. A. The Oklahoma Tourism and Recreation
22 Commission, through the Department, is authorized to promote state-
23 owned, leased, or operated facilities. The Department may utilize
24 specific promotion programs such as the provision of complimentary

1 rooms, package-rate plans, group rates, guest incentive sales
2 programs, entertainment of prospective guests, employee-information
3 programs, golf promotional programs as well as other sales and
4 promotion programs considered acceptable in the hospitality
5 industry, in the travel industry, or the regional magazine industry
6 are approved as necessary advertising and promotion expenses.

7 B. In order to best carry out the duties and responsibilities
8 of the Department and to serve the people of the state in the
9 promotion of tourism and tourism economic development, the
10 Department may enter into partnerships for promotional programs and
11 projects with a private person, firm, corporation, organization or
12 association. The Department may enter into contracts or agreements
13 under terms to be mutually agreed upon to carry out the promotional
14 programs and projects, excluding the advertising contract by the
15 Department which utilizes the Tourism Promotion Tax or acquisition
16 of land or buildings. The contracts or agreements may be negotiated
17 and shall ~~not be subject to the provisions of the~~ be exempt from the
18 Oklahoma Central Purchasing Act ~~or~~ and the Public Competitive
19 Bidding Act of 1974.

20 C. All contracts or agreements entered into as partnerships for
21 promotional projects or programs by the Department shall be approved
22 by the Commission.

23 D. The State Purchasing Director shall review and audit all
24 uses of the exemptions provided in this section.

1 SECTION 8. AMENDATORY 74 O.S. 2021, Section 2239, is
2 amended to read as follows:

3 Section 2239. A. The following purchases by the Oklahoma
4 Tourism and Recreation Department shall be exempt from ~~The~~ the
5 Oklahoma Central Purchasing Act:

6 1. Merchandise for resale purchased for and sold over the
7 Internet, in publications or through Department retail outlets, such
8 as lodges, gift shops, golf course pro shops, restaurants and other
9 purchases made for the production of such merchandise;

10 2. Materials, supplies and services necessary for the efficient
11 and economical operation of revenue-generating, Department-operated
12 facilities and programs including those made to maintain or improve
13 guest perception of quality and service; and

14 3. The services of writers, artists, photographers, designers,
15 programmers, prepress houses, printers, shippers and other
16 professionals and firms involved in the artistic production of
17 department publications, television shows, websites or other
18 revenue-generating or public-facing media, pursuant to internal
19 purchasing procedures approved by the State Purchasing Director.

20 B. The State Purchasing Director shall review and audit all
21 uses of the exemptions provided in subsection A of this section;
22 provided, no exemption shall be construed for the use of leasing or
23 contracting for state owned restaurants in Oklahoma State Parks.

24

1 SECTION 9. AMENDATORY 74 O.S. 2021, Section 2244, is
2 amended to read as follows:

3 Section 2244. A. ~~The Department shall be exempt from any~~
4 ~~provision of Sections 85.1 through 85.45k of this title requiring~~
5 ~~purchases to be made pursuant to a statewide contract for individual~~
6 ~~purchases of less than Two Thousand Five Hundred Dollars (\$2,500.00)~~
7 ~~when the following conditions are met:~~

8 1. ~~The Department documents a cost savings to the state~~
9 ~~resulting from the purchase of the item(s) from a vendor not on the~~
10 ~~statewide contract;~~

11 2. ~~The exempted purchase is made in the county where the~~
12 ~~purchasing facility, as identified in subsection B of this section,~~
13 ~~is located or in an adjacent county; and~~

14 3. ~~The exempted purchase is approved by the Executive Director~~
15 ~~or a designee prior to the purchase.~~

16 B. ~~The Commission shall promulgate rules, procedures, and forms~~
17 ~~necessary to adequately document the dollar savings resulting from~~
18 ~~the application of this section.~~

19 C. ~~The exemption provided for in this section shall apply to~~
20 ~~individual department entities identified by the annual budget~~
21 ~~submitted to the Office of Management and Enterprise Services.~~

22 D. The Department shall not be required to purchase furniture,
23 fixtures and equipment, and soft goods associated with the decor of
24

1 the state parks, lodges, golf, and tourism information center
2 facilities from Oklahoma prisons or reformatories.

3 E. B. The State Purchasing Director shall review and audit all
4 uses of the exemptions provided in this section. Nothing in this
5 section shall be construed to authorize bid splitting as prohibited
6 by ~~The~~ the Oklahoma Central Purchasing Act.

7 SECTION 10. This act shall become effective November 1, 2023.

8 Passed the House of Representatives the 13th day of March, 2023.

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Presiding Officer of the House
of Representatives

Passed the Senate the ____ day of _____, 2023.

Presiding Officer of the Senate